



PRESS RELEASE

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Justice Department Announces Three Banks Reach Resolutions Under Swiss Bank Program

The Department of Justice announced today that Crédit Agricole (Suisse) SA (CAS), Dreyfus Sons & Co Ltd, Banquiers (Dreyfus), and Baumann & Cie, Banquiers (Baumann), reached resolutions under the department's [Swiss Bank Program](#). These banks collectively will pay penalties of more than \$130 million.

"Although the end of the year is upon us, we will not slow down in our efforts to bring banks and U.S. citizens hiding money offshore into compliance," said Chief Richard Weber of IRS-Criminal Investigation (CI). "The agreements signed today are further evidence that the Swiss Bank Program has effectively decimated the hidden offshore banking industry. Collectively, the magnitude of data provided by these banks increases the amount of information we know exponentially about individuals hiding their money and the countries that are facilitating it. IRS-CI will continue to use all of the information we gather from these agreements to vigorously pursue individual U.S. taxpayers who illegally conceal assets offshore and to develop innovative strategies to combat international tax evasion worldwide."

"The department continues to receive detailed information regarding the myriad schemes used by Swiss banks, their employees and other individuals to encourage and profit from the concealment by U.S. taxpayers of foreign accounts," said Acting Assistant Attorney General Caroline D. Ciruolo of the Justice Department's Tax Division. "Our offshore investigations into this conduct expand as each new entity, individual and foreign jurisdiction is disclosed."

The Swiss Bank Program, which was announced on Aug. 29, 2013, provides a path for Swiss banks to resolve potential criminal liabilities in the United States. Swiss banks eligible to enter the program were required to advise the department by Dec. 31, 2013, that they had reason to believe that they had committed tax-related criminal offenses in connection with undeclared U.S.-related accounts. Banks already under criminal investigation related to their Swiss-banking activities and all individuals were expressly excluded from the program.

Under the program, banks are required to:

- Make a complete disclosure of their cross-border activities;
- Provide detailed information on an account-by-account basis for accounts in which U.S. taxpayers have a direct or indirect interest;
- Cooperate in treaty requests for account information;
- Provide detailed information as to other banks that transferred funds into secret accounts or that accepted funds when secret accounts were closed;
- Agree to close accounts of accountholders who fail to come into compliance with U.S. reporting obligations; and

- Pay appropriate penalties.

Swiss banks meeting all of the above requirements are eligible for a non-prosecution agreement.

According to the terms of the non-prosecution agreements signed today, each bank agrees to cooperate in any related criminal or civil proceedings, demonstrate its implementation of controls to stop misconduct involving undeclared U.S. accounts and pay a penalty in return for the department's agreement not to prosecute these banks for tax-related criminal offenses.

CAS, a corporation organized under the laws of Switzerland and headquartered in Geneva, operates a financial services business predominantly focused on offering private banking and wealth management services to high net worth clients. In the period since Aug. 1, 2008, CAS operated Swiss branch offices in Lausanne, Lugano, Basel and Zurich. CAS closed the Basel office in 2013. CAS is wholly owned by Crédit Agricole Private Banking, a French holding company created in 2011 to hold private banking entities of the French Crédit Agricole Group. CAS is the result of the 2005 merger of two Swiss banks that were originally formed by two French banks: Crédit Lyonnais (Suisse) S.A., which was formed in 1876 by the French bank Crédit Lyonnais, and Banque Indosuez (Suisse) SA, which was formed in 1956 by the French bank Banque Indosuez.

CAS opened, maintained and profited from undeclared accounts belonging to clients that it knew, or should have known, were U.S. taxpayers—including those who CAS knew, or should have known, were likely not complying with their U.S. tax obligations. CAS provided certain of its clients, including ones with U.S. tax reporting obligations, with access to its then wholly-owned subsidiary Crédit Agricole Suisse Conseil (CASC), based in Geneva. CASC, directly or through its subsidiaries, provided services that included international estate and tax planning, as well as the establishment and administration of non-U.S. entities. CASC provided its services exclusively to private banking clients of the Crédit Agricole Group, including CAS. CAS sold its interest in CASC to an unaffiliated third party on July 8, 2015.

Effective in 2001, CAS entered into a Qualified Intermediary (QI) Agreement with the Internal Revenue Service (IRS). The QI regime provided a comprehensive framework for U.S. information reporting and tax withholding by a non-U.S. financial institution relating to U.S. securities. Pursuant to its interpretation of the terms of its QI Agreement, CAS's view was that the reporting and withholding obligations of its QI Agreement did not apply to accountholders who were not trading in U.S. securities or accounts that were held in the names of non-U.S. entities that, for U.S. tax purposes, were deemed to be corporations and the beneficial owners of such accounts. As a result, from in or about 2001 and continuing past Aug. 1, 2008, CAS serviced and profited from certain U.S. taxpayers without disclosing their identities to the IRS.

In a number of instances, CAS maintained accounts for certain U.S. taxpayers in the names of corporations, foundations, trusts or other legal entities that were organized in non-U.S. jurisdictions, including the Bahamas, the British Virgin Islands, Columbia, Curaçao, Hong Kong, Mauritius and Panama. CASC provided, directly or through its subsidiaries, corporate services to at least 25 such accounts. Eighteen of these accounts held U.S. securities, two of which received services from CASC or subsidiaries. In some cases, CAS knew or had reason to know that certain offshore entity accounts were operated without strict adherence to corporate formalities. In at least seven instances, CAS accepted from the directors of these entities an IRS Form W-8BEN (or CAS's substitute "Declaration of Non U.S. Status" form) that falsely declared or implied that the entity was the beneficial owner of the assets deposited in the account when CAS knew, or had reason to know, that the entity was being operated as a sham, conduit or nominee with respect to its U.S. taxpayer owner. At least six such offshore entity accounts held U.S. securities and were not reported to the IRS, in violation of CAS's QI Agreement.

Upon client instruction, CAS transferred the assets of certain U.S.-related accounts belonging to some of its U.S. taxpayer clients in ways that concealed the U.S. connection to those accounts. CAS implemented a flawed account closing protocol that enabled certain U.S. taxpayer clients to exit their CAS accounts using ways and means that continued to conceal the accounts from the IRS. As a result, certain U.S. taxpayer clients were able to utilize, and in some instances fully deplete, the assets of undeclared accounts held at CAS through substantial and/or successive withdrawals of cash, reloads of prepaid stored value cash cards or bank checks. In one such instance, an employee of CAS asked a CAS relationship manager to encourage the use of a prepaid stored value cash card as a means of facilitating account closure.

In addition, in certain instances and on the client's instruction, CAS transferred assets from U.S.-related accounts briefly through non-U.S. accounts at CAS en route to accounts at unaffiliated banks without documenting the U.S. relationship to these assets at the time of the transfers. As a result of such transactions, the receiving banks were unable to identify the assets that they received as U.S.-related assets. In a number of other instances, CAS followed client instructions to remove U.S. taxpayers as the holders or beneficial

owners of U.S.-related accounts or to close U.S.-related accounts by transferring assets from the accounts to other accounts maintained by CAS or a CAS affiliate held in the names of other people or entities. CAS documented such instances as donations to, or other bona fide transactions with, the transferees. However, certain CAS relationship managers knew, or had reason to know, that the U.S. taxpayers originally named on such accounts or in control of such assets:

- Continued to maintain effective economic ownership, control and/or enjoyment of the accounts and their assets, or
- Regained ownership or control over the assets after being transferred to accounts at unaffiliated financial institutions.

Before and throughout its participation in the Swiss Bank Program, CAS committed to providing full cooperation to the U.S. government and has made timely and comprehensive disclosures regarding its U.S. cross border business. Among other things, CAS described in detail the structure of its cross border business for U.S.-related accounts including, but not limited to:

- Its cross border policies and directives;
- Data on desks and employees with elevated concentrations of U.S.-related accounts;
- Information on key external asset managers that had significant involvement with U.S.-related accounts;
- The names and functions of individuals who were involved in the structuring, operation or supervision of CAS's cross border business for U.S.-related accounts; and
- Written summaries on its largest U.S.-related accounts and those involving conduct disclosed herein.

Since Aug. 1, 2008, CAS maintained approximately 954 declared and undeclared U.S.-related accounts having a maximum aggregate dollar value in excess of \$1.8 billion. CAS will pay a penalty of \$99.211 million.

Dreyfus is a traditional private bank founded in 1813 in Basel, Switzerland. As one of the oldest family-owned banks in Switzerland, Dreyfus is managed today by the sixth generation of the founder's family. In November 2013, Dreyfus opened a representative office in Tel Aviv to serve existing and new clients in the Israeli market. Other than the Tel Aviv representative office, Dreyfus has never operated a desk outside of Switzerland.

Following World War II, Dreyfus created Panama corporations to hold funds for clients. This practice had its roots in the desire of Jewish clients to protect their assets for reasons of personal safety, and the purpose and operation of the entities was to conceal ownership of the assets from all government authorities, "friendly" or otherwise. However, the practice extended well into the 2000s. Among the Panama entity accounts created by Dreyfus are 33 U.S.-related accounts, the oldest of which opened in 1951. The combined high value of these accounts was approximately \$90 million. The U.S. person beneficial owners of the Panama entity accounts were properly identified as beneficial owners of the entities on Forms A pursuant to Swiss know your customer rules. However, the entities were identified as the beneficial owner on IRS Forms W-8BEN, when, as Dreyfus well knew, the true beneficial owners were U.S. persons. Dreyfus employees – primarily the Deputy Chairman of the Executive Management, a former member of Dreyfus's Board of Directors and Head of the Gérance division, which provides services mainly to corporate entities, and a former deputy manager – also served as corporate directors of the entities.

With respect to at least two Panama entity accounts, the entity structure was used to conceal payments into the United States. For example, one Panama entity account was opened in 1991 with a husband and wife, both U.S. nationals living in the United States, as beneficial owners. The account, which had a high value of over \$1 million during the period since Aug. 1, 2008, was opened with funds inherited from a relative with an account at Dreyfus. Beginning in 2008, checks in amounts between \$4,000 and \$5,000 each were sent to the husband and the couple's three sons in the United States on a regular basis. In total, 205 checks with a combined value of approximately \$925,000 were sent to the individual family members in the United States. Dreyfus's efforts to convince the beneficial owners to disclose the account were unsuccessful, and the account was closed in 2012 without being disclosed to U.S. authorities.

For four Panama entity accounts, Dreyfus allowed the accounts to be closed in the form of bearer shares, which assisted in the further concealment of assets in the accounts. A bearer share is a security that is not required to be registered and which can be transferred without an endorsement of any kind. Thus, a bearer

share is negotiable by whoever possesses it. For example, an individual can purchase shares from an issuer and exchange the shares for cash at a financial institution that redeems bearer shares or may give the shares to another individual, who may exchange the shares for cash. The four Panama entities used assets in the accounts to purchase bearer shares at Dreyfus, with the shares then physically delivered to representatives of the Panama entities in closure of the accounts. Because the shares could then be delivered to the U.S. persons whose assets were converted to bearer shares, or to anyone else, funds from these accounts left Dreyfus in a virtually untraceable manner. With respect to these four accounts, over \$4 million in assets left Dreyfus in the form of bearer shares.

Dreyfus also opened and maintained at least 34 U.S.-related accounts for domiciliary entities created in foreign countries including the Bahamas, the British Virgin Islands, the Isle of Man, Liberia, Liechtenstein, Mauritius, Nevis and Switzerland. For each account, the U.S. beneficial owner was properly identified in bank documents for purposes of Swiss know your customer rules, but the non-U.S. entity was identified as the beneficial owner of the account on IRS Forms W-8BEN. In this manner, Dreyfus assisted U.S. persons in concealing ownership of the assets.

Separate from its traditional private banking services, over 20 years ago, Dreyfus management agreed to serve as a custodian for physical gold and cash for clients of a third party, a British Virgin Islands entity whose business operations are based in Switzerland (Entity #1). Entity #1 also maintained and operated a storage facility at the Zurich airport for the storage of precious metals other than gold, independent of its relationship with Dreyfus. Dreyfus's relationship with Entity #1 is overseen by Dreyfus's Head of Legal and Compliance. For introducing customers to Dreyfus, Entity #1 receives a share of the general fees earned by Dreyfus for storing the gold and cash.

A total of 315 U.S.-related accounts with a combined high value of approximately \$440 million in gold and/or cash were held through Entity #1 and custodied by Dreyfus. Although Entity #1's master account at Dreyfus is held in the name of a British Virgin Islands entity, each U.S. person storing gold or cash with the bank has a subaccount of Entity #1's master account and can hold the subaccount in the name of an individual, trust, foundation, corporation or other structure. Ninety-two of these 315 U.S.-related gold and cash accounts were held in the name of an entity. Although some of the gold and cash client base maintained their accounts because of fears related to the collapse of the banking system, upon review by Dreyfus and the department, certain of the gold and cash storage accounts show strong indicia of the concealment of assets, such as being held in the name of nominee entities.

Since Aug. 1, 2008, Dreyfus held a total of 855 U.S.-related accounts with a combined high value of assets under management of approximately \$1.76 billion. Dreyfus will pay a penalty of \$24.161 million.

Baumann is a traditional private bank founded in 1920, which is headquartered in Basel, Switzerland. In June 2009, Baumann opened a branch in Zurich dedicated purely to private banking.

The majority of Baumann's U.S. clients structured their accounts so that they appeared as if they were held by a non-U.S. legal structure, such as an offshore corporation or trust, which aided and abetted the clients' ability to conceal their undeclared accounts from the IRS. Baumann was not involved in setting up these entities, but those entities were generally created or serviced by a few Zurich-based lawyers with whom the relationship managers in Baumann's Zurich branch were personally acquainted. In the period since Aug. 1, 2008, Baumann opened U.S.-related accounts for non-U.S. structures, such as offshore corporations or trusts. These offshore entities included British Virgin Islands, British West Indies, Panama and Seychelles corporations, as well as Liechtenstein foundations, all of which were established by external law firms.

As one example, Baumann opened an account in June 2009 for a Panama corporation, established in 2000, where the beneficial owner as listed on Form A was a U.S. citizen domiciled in the United States. This person was a retired lawyer living in Las Vegas. The beneficial owner provided a U.S. passport upon opening the account, which was funded by \$27 million from the accountholder's account at another bank. The accountholder signed Baumann's compliance form indicating that the Panama corporation was in fact the beneficial owner of the assets for U.S. tax withholding purposes when Baumann knew or should have known this was untrue.

Baumann offered a variety of other traditional Swiss banking services that, although available to all its clients, it knew could assist, and did assist, its U.S. clients in concealing their undeclared assets and income. Among other things, Baumann opened numbered accounts and held bank statements and other mail relating to some U.S.-related accounts at Baumann's offices in Switzerland, rather than sending the statements and mail to the U.S. taxpayers in the United States.

Regarding one numbered account, in July 2010, the clients transferred \$2 million to an account at Baumann from an account at Credit Suisse. The taxpayers were American horse breeders who had granted a power of attorney to an external asset management company based in Zurich. That external asset manager introduced the clients to Baumann, and Baumann was instructed to retain the correspondence, to send copies to the clients' external asset manager and not to invest in U.S. securities. In 2010 and 2011, Baumann was instructed to make repeated payments of under \$10,000 to a U.S. bank account in the name of a U.S.-based coin dealer. From June to August 2011, the clients instructed Baumann to buy 2,279 pieces of Krugerrand gold coins, at that time worth approximately \$3.7 million. In September 2011, the clients instructed Baumann to close the account. The remaining assets were withdrawn in cash, and the account closed in 2011.

Since Aug. 1, 2008, Baumann maintained a total of 167 U.S.-related accounts, with an aggregate peak value of \$514.1 million. Baumann will pay a penalty of \$7.7 million.

In accordance with the terms of the Swiss Bank Program, each bank mitigated its penalty by encouraging U.S. accountholders to come into compliance with their U.S. tax and disclosure obligations. While U.S. accountholders at these banks who have not yet declared their accounts to the IRS may still be eligible to participate in the [IRS Offshore Voluntary Disclosure Program](#), the price of such disclosure has increased.

Most U.S. taxpayers who enter the IRS Offshore Voluntary Disclosure Program to resolve undeclared offshore accounts will pay a penalty equal to 27.5 percent of the high value of the accounts. On Aug. 4, 2014, the IRS increased the penalty to 50 percent if, at the time the taxpayer initiated their disclosure, either a foreign financial institution at which the taxpayer had an account or a facilitator who helped the taxpayer establish or maintain an offshore arrangement had been publicly identified as being under investigation, the recipient of a John Doe summons or cooperating with a government investigation, including the execution of a deferred prosecution agreement or non-prosecution agreement. With today's announcement of these non-prosecution agreements, noncompliant U.S. accountholders at these banks must now pay that 50 percent penalty to the IRS if they wish to enter the IRS Offshore Voluntary Disclosure Program.

"Today's resolutions reflect the tough but measured terms of the Department of Justice's Swiss Bank Program," said acting Deputy Commissioner International David Horton of the IRS Large Business & International (LB&I) Division. "Large and small financial institutions are accepting their responsibility and putting their non-compliance behind them. They are also providing us information that will lead us to those U.S. taxpayers who have failed to report their foreign accounts and pay their income taxes."

Acting Assistant Attorney General Ciraolo thanked the IRS and in particular, IRS-CI and the IRS LB&I Division for their substantial assistance. Acting Assistant Attorney General Ciraolo also thanked Paul G. Galindo, Kathleen E. Lyon and Carl D. Wasserman, who served as counsel on these matters, as well as Senior Counsel for International Tax Matters and Coordinator of the Swiss Bank Program Thomas J. Sawyer, Senior Litigation Counsel Nanette L. Davis and Attorney Kimberle E. Dodd of the Tax Division.

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